

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2069.04A
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	October 21, 2003
DATE OF REPORT:	December 4, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	February 5, 2004

COMPLAINT ISSUES:

Whether the Crown Point Community School Corporation and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written.

511 IAC 7-21-3(c) by failing to provide the student with an instructional day of the same length as the instructional day for nondisabled elementary students in the same school building.

On November 20, 2003, the Director of Special Education granted an extension of time until December 4, 2003, due to the complexity of the second issue.

FINDINGS OF FACT:

1. The Student is eleven years old and is eligible for special education and related services due to a mild mental disability.
2. The Student's individualized education program (IEP) for the period from December 2, 2002, through December 1, 2003, provided for instruction in a separate special education classroom (the Special Education Classroom) for most of the school day (25 hours weekly), and participation in general education classes (art, music, gym, etc.) for the remainder of the day. The IEP contains a reading skills goal to increase reading skills to second grade level and a math skills goal to meet second grade level, as described in the Indiana Academic Standards. The IEP does not specify particular instructional materials or methodologies.
3. During the 2002-2003 school year, the Special Education Classroom teacher created instructional materials to supplement and supplant textbooks. In contrast, for a six-week period near the beginning of the 2003-2004 school year, the substitute teacher made greater use of textbooks. Some of the textbooks were third-grade books including, for example, third grade spelling lists. There is neither a goal nor a benchmark/objective addressing spelling in the Student's IEP. The Student's IEP indicated that, as of December of 2002, the Student performed at the grade 2 – 3 level in some subjects.
4. The computerized IEP format utilized by the School includes a section immediately following goals and benchmarks that identifies how and when progress will be reported. During the course of the year, teachers are to fill in progress codes and progress reporting notes for each reporting period. The

Student's IEP specified "send with report card" and "copy of goal page" on January 10, 2003, March 30, 2003, June 12, 2003, and October 31, 2003. Not all of these dates were report card dates. A previous version of the software menu said "report card," rather than "send with report card."

5. The Parent received report cards. The Parent did not receive copies of goal pages with progress codes or notes at the times required by the Student's IEP. The special education cooperative acknowledges that there are no records documenting that progress reports were printed out and sent to parents.
6. On October 29, 2003, the Parent received the past due progress reports when the special education supervisor provided a copy that had previously been entered into the computer. As voluntary corrective action, the special education cooperative will contact the parent of each student in the Special Education Classroom to ask whether quarterly progress reports were provided and will send a copy to those who did not receive progress reports. In addition, the special education cooperative has instituted a new practice requiring all special education teachers at the Student's elementary school to note on a parent contact sheet (Form 303) the date that progress reports were provided to parents.
7. The school day at the Student's elementary school ends at 3:23 p.m. The first bell rings at 3:18 p.m., signaling students to gather their materials, put on their coats, etc. The dismissal bell rings at 3:23 p.m.
8. During the 2002-2003 school year and the beginning of the 2003-2004 school year, instruction in the Special Education Classroom ended at 3:00 p.m.
9. Some students left the Special Education Classroom at 3:00 p.m., either to go to other classrooms or to leave school. The remaining students, including the Student, gathered their materials, put on their coats, etc. as early as 3:00 p.m. while the teacher recorded notes for parents. These students did not engage in educational activities during the time from 3:00 p.m. until 3:18 p.m. and were dismissed before the first bell rang at 3:18 p.m. When the Parent visited the Special Education Classroom prior to 3:18 p.m. on October 13, 2003, the Parent observed the remaining students sitting, waiting for dismissal.
10. Through case conference committee (CCC) decisions, the school day has been varied for some students in the Special Education Classroom. However, the Student's IEP did not authorize or require a school day that is different in length or timing from general education students' school day. Without CCC decisions, some students in the Special Education Classroom were dismissed early, because their respective buses from other school corporations came to the school early. However, the Student's schedule is not affected by cross-corporation transportation issues, as the Student's legal settlement is in the same school corporation as the elementary school that the Student attends.
11. During the course of this complaint investigation, the School discontinued the practice of dismissing students from the Special Education Classroom before the end of the school day, except in those cases in which CCC decisions provide for shortened school days or different beginning/ending times. As of November 6, 2003, the schedule of a bus from another school corporation was changed. The route for a special transportation bus from the same school corporation has also been changed since this Complaint was filed.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that, with respect to instructional materials and methodologies, the Student's IEP was non-specific and, therefore, changes in instructional materials and practices did not constitute a failure to implement the IEP as written. Findings of Fact #4 and #5 indicate that progress reports were not provided at the times specified in the Student's IEP. Therefore, a violation of 511 IAC

7-27-7(a) occurred with respect to implementing the requirement to inform the parents, at times specified in the IEP, of the Student's progress toward the annual goals. However, Finding of Fact #6 indicates that corrective action has been taken with respect to the Student's past progress reports, and voluntary corrective action has been proposed with respect to past progress reports of other students and future progress reporting.

2. Findings of Fact #7, #8, #9, and #10 indicate that, from the beginning of the 2002-2003 school year, the Student and some other students in the Special Education Classroom, were not provided with an instructional day of the same length as the instructional day for nondisabled elementary students in the same school building. Therefore, a violation of 511 IAC 7-21-3(c) occurred. However, Finding of Fact #11 indicates that the violation is no longer occurring.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Crown Point Community School Corporation and the Northwest Indiana Special Education Cooperative shall:

1. By December 19, 2003, implement the voluntary corrective action described in Finding of Fact #6. Documentation of compliance (consisting of a copy of the letter sent to parents) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by December 31, 2003.
2. By January 15, 2004, convene the Student's case conference committee to consider the nature and amount of compensatory services to be provided to the Student as corrective action for the shortened school day from the beginning of the 2002-2003 school year until the practice of ending instruction (or educational activities) at 3:00 p.m. was discontinued. Documentation of compliance (consisting of a copy of the CCC Report) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by January 30, 2004.
3. By December 31, 2003, send a letter to the parent(s) of each of the other students in the Special Education Classroom (other than the three students covered by Complaint #2069B.04), notifying the parent that he/she may request a case conference committee meeting to consider whether his/her student is entitled to compensatory services as corrective action for the shortened school day during the 2002-2003 school year and the beginning of the 2003-2004 school year until the discontinuation of the practice of ending instruction (or educational activities) at 3:00 p.m. Documentation of compliance (consisting of a copy of the letter to parents and a summary report of the responses) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by January 30, 2004.
4. Monitor the dismissal time of the Special Education Classroom through January 23, 2004. If necessary, continue communications with the Transportation Directors regarding bus routes and schedules, so that students are not dismissed from the Special Education Classroom earlier than general education students at the same school, except in those cases where a student's case conference committee has agreed upon a school day that is different in length or timing from the school day of nondisabled students in the same school building. Documentation of compliance (consisting of monitoring reports and, if applicable, a summary of communications with Transportation Directors) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by January 30, 2004.